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Letter dated 5 May 2017 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit a letter from the Chairperson of the African Union Commission as well as a communiqué on Western Sahara adopted by the Peace and Security Council of the African Union at its 668th meeting, held on 20 March 2017 in Addis Ababa (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) António **Guterres**

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Annex

Letter dated 27 April 2017 from the Chairperson of the African Union Commission addressed to the Secretary-General

I am writing to bring to your attention the Communiqué on the Situation in Western Sahara adopted by the African Union Peace and Security Council in its 668th meeting, held in Addis Ababa on 20 March 2017.

Prior to the Peace and Security Council meeting, the Assembly of the Union, in its decision (Assembly/AU/Dec.629 (XXVIII)) during its 28th session, held in Addis Ababa on 30 and 31 January 2017, expressed deep concern over the current impasse in the peace process in Western Sahara and stressed the urgent need for renewed efforts to facilitate an early resolution of the conflict. It also reiterated its call to the United Nations General Assembly to determine a date for the holding of the self-determination referendum for the people of Western Sahara and to protect the integrity of Western Sahara as a non-self-governing territory from any act which may undermine it.

In adopting this communiqué, the Peace and Security Council is not only guided by its responsibilities to promote peace and security on the Continent within the framework of Chapter VIII of the Charter of the United Nations, but also by the encouraging developments that have recently occurred within the African context, in particular the accession of Morocco, in January 2017, to the Constitutive Act of the African Union.

I wish in particular to refer to paragraph 10 of the Communiqué, in which the Peace and Security Council:

- Underlined the imperative for Morocco and the Saharawi Arab Democratic Republic, in their capacity as Member States of the African Union, to engage in serious and direct talks, without conditions and in compliance with article 4 of the Constitutive Act, which stipulates, among other things, the peaceful resolution of conflicts among Member States of the Union;
- Decided to reactivate the Ad Hoc Committee of Heads of State and Government on the conflict that was established in July 1978, in order to ensure a high level and sustained African engagement with the two Member States;
- Decided that the African Union office in Laayoune, Western Sahara, be reopened; and
- Decided to undertake a field visit to the Territory in the course of 2017.

The Peace and Security Council also underlined, among other things, the issue of restoring the full functionality of the United Nations Mission for the Referendum in Western Sahara in order for the Mission to be able to effectively oversee the ceasefire agreement and prevent any further escalation of tensions in the territory.

In this regard, I would be most grateful if you could bring this letter and the attached Communiqué to the attention of the Security Council to be circulated as official documents of the Council, during its April meeting on Western Sahara.

Please accept, Excellency, the assurance of my highest consideration.

(*Signed*) Moussa **Faki Mahamat**

Enclosure

Communiqué of the 668th meeting of the African Union Peace and Security Council, held on 20 March 2017

The Peace and Security Council of the African Union, at its 668th meeting, held on 20 March 2017, adopted the following decision on the situation in Western Sahara:

Council

1. *Takes note* of the report of the Chairperson of the Commission on the situation in Western Sahara (PSC/PR/2(CDXCVI), as well as of the update provided by the African Union Special Representative for Western Sahara, Ambassador Tadesse Yilma. Council *also takes note* of the statement made by the delegation of the Saharawi Arab Democratic Republic, led by His Excellency Mohamed Salem Ould Salek, Minister of Foreign Affairs, as well as by the United Nations;

2. *Recalls* decision EX.CL/Dec.758 (XXII), adopted by the 22nd Ordinary Session of the Executive Council held in Addis Ababa on 24 and 25 January 2013, requesting the Commission to take all necessary measures for the organization of a referendum for the self-determination of the people of Western Sahara, in compliance with the relevant decisions of the Organization of African Unity and the United Nations, as well as decision EX.CL/Dec.773(XXIII), adopted by the 23rd Ordinary Session of the Executive Council, held in Addis Ababa from 19 to 23 May 2013, reiterating earlier decisions and pronouncements of the Organization of African Unity/African Union on the situation in Western Sahara and requesting the Chairperson of the Commission to pursue her efforts, including further consultations with the Parties, as well as continued interaction with the United Nations and other relevant international stakeholders;

3. *Further recalls* decision Assembly/AU/Dec.559(XXIV), adopted by the 24th Ordinary Session of the Assembly of the Union, held in Addis Ababa on 30 and 31 January 2015, reiterating United Nations Security Council calls to the Parties to continue negotiations without preconditions and in good faith, expressing the African Union's full support for the efforts of the United Nations Personal Envoy, welcoming the steps taken by the Chairperson of the Commission to follow up on the relevant decision of the Executive Council and requesting her to pursue her efforts, in order to mobilize the necessary support for the United Nations-led process;

4. *Also recalls* decision Assembly/AU/629 (XXVIII), adopted by the 28th Ordinary Session of the Heads of State and Government held in Addis Ababa on 30 and 31 January 2017, in which the Assembly expressed its deep concern over the current impasse in the peace process in Western Sahara, stressed the urgent need for renewed efforts to facilitate an early resolution of the conflict and reiterated its call to the United Nations General Assembly to determine a date for the holding of the self-determination referendum for the people of Western Sahara and protect the integrity of the Western Sahara as a non-self-governing territory from any act which may undermine it. Council *underlines* other relevant provisions of the Assembly's decision relating to urging the United Nations Security Council to fully assume its responsibilities in restoring the full functionality of the United Nations Mission for the Referendum in Western Sahara (MINURSO), as it is indispensable for overseeing the ceasefire and organizing the self-determination referendum in Western Sahara, as well as in addressing the issues of respect for human rights and the illegal exploration and exploitation of the Territory's natural resources, particularly in line with the important judgment of the Court of Justice of the

European Union issued on 21 December 2016, on the arrangement between the European Union and Morocco signed in 2012, on the mutual liberalization of the trade in agricultural and fisheries products;

5. *Recalls* its earlier decisions on the situation in Western Sahara, namely, Communiqué PSC/PR/COMM/.1(CDXCVI) of 27 March 2015 (496th meeting), Press Statement PSC/PR/COMM.2(DII) of 30 April 2015 (503rd meeting) and Communiqué PSC/PR/COMM.(DLXXXVIII) of 6 April 2016 (588th meeting), as well as its Communiqué PSC/PR/COMM.(DCXVII) of 12 August 2016 (617th meeting). *Also recalls* Communiqué PSC/AHG/COMM.4(DXLVII), adopted at the 547th meeting of the Council, held in New York on 26 September 2015, at the level of Heads of State and Government, in which it urged the United Nations Security Council to fully assume its responsibilities and take all necessary measures to rapidly resolve the Western Sahara conflict and find an effective response to issues related to respect for human rights and the illegal exploitation of natural resources of the Territory;

6. *Congratulates* the Kingdom of Morocco for its accession to the African Union without preconditions or reservations. Council *commends* Morocco's readiness to sit side by side with the Saharawi Arab Democratic Republic in the deliberations of the African Union policy organs;

7. *Regrets* the fact that the Kingdom of Morocco, which had been invited by the Council to attend its 668th meeting on the situation in Western Sahara, did not come to the meeting. Council therefore *calls on* the Kingdom of Morocco to extend the necessary cooperation in conformity with the provisions of the Constitutive Act of the African Union and the Protocol relating to the Establishment of the Peace and Security Council of the African Union;

8. *Commends* the continued efforts of the United Nations Secretary-General, as well as those of his Personal Envoy, towards the search for a solution within the framework of the relevant resolutions of the United Nations Security Council, including the consultations undertaken by the Personal Envoy as part of his new approach, as outlined in the report of the Secretary-General on the situation concerning Western Sahara of 19 April 2016 (S/2016/355). Council *regrets* the resignation of Ambassador Christopher Ross, the United Nations Personal Envoy of the Secretary-General for Western Sahara, and also *commends* him for the efforts he had been deploying to overcome the deadlock in the peace process;

9. *Welcomes* the steps taken by the Chairperson of the Commission in implementation of the relevant decisions of the African Union policy organs and in support of the United Nations-led efforts, including the efforts of former President Joaquim Chissano as the African Union Special Envoy. Council *expresses satisfaction* at the efforts deployed by the Special Envoy to address the current impasse in the peace process, and *commends* him for his commitment in the discharge of his mandate;

10. *Notes with deep concern* that, four decades after the onset of the conflict in Western Sahara and 54 years after the decision to decolonize Western Sahara, all efforts aimed at finding a solution have so far failed to achieve the expected results and that the prevailing deadlock in the peace process not only heightens tensions in the Territory, but also undermines efforts to promote continental integration. Accordingly, Council *expresses the urgency* for renewed efforts to achieve an early and definitive resolution to this conflict. In this respect, Council:

(a) *Recalls* the pertinent provisions of article 4 of the Constitutive Act of the African Union stipulating, among other things, the peaceful resolution of conflicts among the Member States of the Union;

(b) *Underlines* the imperative for the Kingdom of Morocco and the Saharawi Arab Democratic Republic, in their capacity as Member States of the Union, to immediately engage in direct and serious talks, without preconditions and in compliance with article 4 of the Constitutive Act;

(c) *Decides* to strengthen the mandate of Former President Joaquim Chissano of Mozambique, to be appointed as African Union High Representative for Western Sahara with the mandate to facilitate the direct talks between the two Member States and to mobilize African and United Nations efforts required to this effect. Council *requests* the Chairperson of the Commission to take the necessary steps to enable the African Union High Representative to immediately undertake his mandate;

(d) *Also decides* to reactivate the Ad hoc Committee of Heads of State and Government on the conflict in Western Sahara, established pursuant to resolution AHG/Res.92(XV), adopted at the fifteenth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Khartoum from 18 to 22 July in 1978. Council *requests* the Chairperson of the Commission to undertake the necessary consultations for the finalization of the composition and the operationalization of the Ad hoc Committee;

(e) *Calls on* all African Union Member States, in the spirit of pan-Africanism and in line with the provisions of the Constitutive Act, to mobilize and provide political, diplomatic and other forms of support to the two Member States and to the African Union High Representative for Western Sahara in order to facilitate their direct talks;

(f) *Further requests* the African Union Commission to immediately take the necessary steps for the re-opening of the African Union Office in Laayoune, Western Sahara, including provision of the requisite human and financial resources and logistical facilities;

(g) *Appeals* to the United Nations and the larger international community to lend their full support to African efforts aimed at overcoming the current impasse in the peace process in Western Sahara;

(h) *Further decides* to regularly review the situation in Western Sahara, on the basis of updates and recommendations provided by the Chairperson of the Commission and the African Union High Representative for Western Sahara;

(i) *Also decides* to undertake a field mission of the Council to Western Sahara in the course of 2017.

11. *Looks forward* to the renewal of the mandate of MINURSO at the expiration of its current mandate, on 30 April 2017, as decided by the United Nations Security Council in resolution 2285 (2016) of 29 April 2016. Council *urges* the United Nations Security Council to take the necessary steps to restore full functionality of MINURSO in order for it to effectively oversee the ceasefire agreement and to avoid recurrence of violations. Council *further requests* the United Nations Security Council to provide the Mission with a human rights mandate, taking into account the need to ensure sustained, independent and impartial monitoring of human rights in both the Territory and the refugee camps. Council also requests the United Nations High Commissioner for Human Rights to take appropriate steps in this respect;

12. *Requests further* the African Commission on Human and Peoples' Rights to undertake, as soon as possible, a mission to Western Sahara and to the refugee camps in Tindouf, to assess the human rights situation and make recommendations to Council, building on the outcome of its visit to the region in September 2012. In

this regard, Council *urges* the two Member States to extend full cooperation to the mission of the African Commission on Human and Peoples' Rights;

13. *Stresses the urgent need* to address the issue of the illegal exploration and exploitation of the Territory's natural resources, bearing in mind the call made in the United Nations Secretary-General's report of 10 April 2014, for all relevant actors, in the light of the increased interest in the natural resources of Western Sahara, to "recognize the principle that the interests of the inhabitants of these territories are paramount", in accordance with Chapter XI, Article 73 of the Charter", as well as in line with the many legal opinions and judgments issued by international and regional Organizations on the issue. In this respect, Council *urges* the Kingdom of Morocco not to enter into contracts for the exploration and exploitation of Western Sahara's natural resources;

14. *Requests* the Commission, through the appropriate channels, to undertake a demarche towards the United Nations Security Council, for the African Union High Representative for Western Sahara to be given the opportunity to address the Security Council during its meeting on Western Sahara scheduled to take place in the month of April 2017. Council *further requests* the African members of the United Nations Security Council, working within the framework of the A3, to support and facilitate this request;

15. *Invites* the Chairperson of the Commission to forward this communiqué to the two Member States, namely the Kingdom of Morocco and the Saharawi Arab Democratic Republic, for their immediate action. Council *further invites* the Chairperson of the Commission to transmit the communiqué to the United Nations Secretary-General and to request that it be circulated as an official United Nations Security Council document, as well as to other relevant international stakeholders;

16. *Decides* to remain actively seized of the matter.